attaches. *The Scotia*, 35 Fed. 907. And such liens have priority over a mortgagee's claim. *The H. C. Wahlberg*, 87 Fed. 361; *The Scotia, supra; The Guiding Star*, 9 Fed. 521. Freight money is subject to maritime liens. *The Andalina*, 12 P. D. 1; *The Brig Wexford*, 7 Fed. 674. And a maritime lien is not a mere debt against the owner of the vessel, but is a right *in rem*, enforceable against the ship itself. See *The John G. Stevens*, 170 U. S. 113. So even if the mortgagee's claim to freight be based not on a lien, but on his possession of the ship, it should be subject to the materialman's claim against the vessel. See *The Brig Wexford, supra.*

AGENCY — CREATION OF AGENCY — APPOINTMENT BY INFANT. — The plaintiffs, who were infants, made a contract through an authorized agent to buy land. The defendants refused to convey on the ground that the contract was void. *Held*, that the plaintiffs can recover damages. *Johannsson* v. *Gudmundson*, 11 West. L. Rep. 176 (Manitoba, Ct. App., June 14, 1909).

According to a great mass of authority, an infant is incapable of appointing an agent. *Doe d. Thomas* v. *Roberts*, 16 M. & W. 778; *Holden* v. *Curry*, 85 Wis. 504, 510. This rule is repugnant to the modern conception of an infant's powers, and seems to have grown out of the old test of the validity of the acts of an infant, which was whether they were beneficial or prejudicial to him. Warrants of attorney to confess judgment or convey land were considered necessarily prejudicial, so they were always said to be void, and the same thing came to be said of the appointment of agents for other purposes. But an exception to this rule was recognized in the appointment of an attorney to accept seisin, which was clearly beneficial. See *Zouch* v. *Parsons*, 3 Burr. 1794, 1804, 1808. In an increasing number of jurisdictions it is now held that the appointment of an agent by an infant for ordinary purposes is not void, but that acts of such an agent for the infant principal, like acts of the infant himself, are voidable at the option of the infant. *Whitney* v. *Dutch*, 14 Mass. 457; *Hardy* v. *Waters*, 38 Me. 450; *Coursolle* v. *Weyerhauser*, 69 Minn. 328. In following this view, the principal case seems sound.

BANKRUPTCY — DISCHARGE — SUBSEQUENT ACTION FOR FRAUD. — After the defendant had been adjudicated bankrupt, the plaintiff filed his claim for goods sold and delivered and received part payment thereon. Subsequent to the defendant's discharge, the plaintiff sued for the balance due, on the ground that the sale was induced by the defendant's fraudulent representations. *Held*, that he has not waived the right to recover for the defendant's fraud. *Standard Sewing Machine Co.* v. *Kattell*, 117 N. Y. Supp. 32 (App. Div.).

Under section 17 (2) of the Bankruptcy Act of 1898 as amended in 1903, it seems clear that a cause of action for deceit is not affected by a discharge in bankruptcy. See *Mackel* v. *Rochester*, 135 Fed. 904. So the question is whether the plaintiff had lost his right to sue for fraud by his election to prove his claim. To constitute an election, some decisive act in pursuit of one of two inconsistent remedies must be done with knowledge of the facts. *Pekin Plow Co.* v. *Wilson*, 66 Neb. 115. By the weight of authority, proving a claim with knowledge of the bankrupt's fraud is sufficient evidence of such election, if the remedies are inconsistent. *Standard Varnish Wks.* v. *Haydock*, 143 Fed. 318. But a suit for fraud is consistent with affirmance of the sale induced. *Glover v. Radford*, 120 Mich. 542. Some cases, however, hold that a judgment for the price is a bar to a subsequent action for the fraud. *Caylus* v. *New York, Kingston & Syracuse Railroad Co.*, 76 N. Y. 609. But these decisions result rather from an unwillingness to give two judgments for claims arising out of the same transaction than from any supposed election. In the principal case, only the value of the goods less payments already made was demanded, and any dividends received would undoubtedly go toward lessening the judgment. The decision, therefore, seems correct. A previous case in the same jurisdiction is in accord. *Maxwell* v. *Martin*, 130 N. Y. App. Div. 80.